

Our Docket No.: 82771P332PCTUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

James V. Luciani

Application No.: 09/786,529

Filed: February 23, 2001

For: A NON-BROADCAST, MULTIPLE
ACCESS INVERSE NEXT HOP
RESOLUTION PROTOCOL (INNHRP)

Examiner: Unassigned

Art Group: 2661

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DECLARATION OF GEORGE L. FOUNTAIN IN SUPPORT OF PETITION TO REVIVE
APPLICATION

Assistant Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

I, George L. Fountain, declare as follows:

1. On information and belief, the instant Patent Cooperation Treaty (PCT) Application Serial No. PCT/US99/19490 was filed on or about August 26, 1999.

2. On information and belief, the undersigned, on behalf of the Applicant, filed a first submission of items concerning a filing under 35 U.S.C. 371, a copy of the International Application as filed, and a First Preliminary Amendment with the United States Patent and Trademark Office as a receiving office for PCT filings, on or about February 23, 2001 (Exhibit A - transmittal only).

3. On information and belief, the United States Patent and Trademark Office, on or about April 13, 2001, issued a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). (Exhibit B). This Notification was mailed to:

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GLF/lrd

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George L. Fountain
Oppenheimer, Wolff & Donnelly
Suite 3800
2029 Century Park East
Los Angeles, CA 90067

4. On information and belief, at the time of the mailing of the Notification (Exhibit B), the undersigned was no longer employed with Oppenheimer, Wolff & Donnelly nor was at that address.

5. On information and belief, the undersigned on or about March 13, 2000 changed employment from the employer and address noted in paragraph 3 of this Declaration to his current employer and address as follows:

Blakely, Sokoloff, Taylor & Zafman
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626-7149

6. Accordingly, at the time of the mailing of the Notification (Exhibit B), the undersigned was not at the mailing address listed on the Notification by the United States Patent and Trademark Office.

7. On information and belief, the undersigned submitted a change of address with the Office of Employment and Discipline (OED) of the United States Patent and Trademark Office shortly after the March 13, 2000 start date with his current employer listed in paragraph 5 of this Declaration.

8. On information and belief, the Office of Employment and Discipline (OED) of the United States Patent and Trademark Office, on or about June 6, 2000, recorded the undersigned's new employer and address information.

9. On information and belief, it appears that the United States Patent and Trademark Office made a mistake in the mailing address of the Notification (Exhibit B) since at such time its record showed that the undersigned was no longer at such address.

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10. On information and belief, Oppenheimer, Wolff & Donnelly did not apprise the undersigned nor the undersigned's employer of the Notification (Exhibit B).

11. Accordingly, the undersigned nor the undersigned's employer was not aware that the Notification (Exhibit B) issued until about February, 2003. Since the undersigned and the undersigned's employer were not aware of the issuance of the Notification, it was unavoidable, or at least unintentional, not to respond to the Notification.

12. From February 2003 to the filing of the instant Petition, the undersigned has been accumulating and organizing the information in support of the instant Petition, as well as preparing the instant Petition and Declaration with supporting documents.

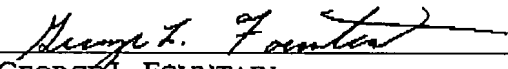
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 20, 2003, at Costa Mesa, California.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

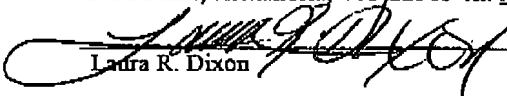
Dated: June 20, 2003


GEORGE L. FOUNTAIN
Reg. No. 36,374

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025
(714) 557-3800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313 on: June 20, 2003


Laura R. Dixon 06/20/03

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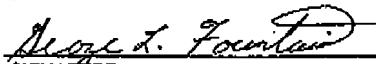
-3-

GLF/lrd

EXHIBIT A

FORM PTO 1100 (REV. 11-2000)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTORNEY'S DOCKET NUMBER 082771.P332PCTUS
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371				U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL APPLICATION NO. PCT/US99/19490		INTERNATIONAL FILING DATE 26/08/1999		PRIORITY DATE CLAIMED 26/08/1998
TITLE OF INVENTION NON-BROADCAST, MULTIPLE ACCESS INVERSE NEXT HOP RESOLUTION PROTOCOL				
APPLICANT(S) FOR DO/EO/US Applicant: NORTEL NETWORKS CORPORATION (Inventor: James V. Luciani)				
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:				
1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. 4. <input type="checkbox"/> The US has been elected by the expiration of 19 months from the priority date (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) a. <input checked="" type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). Items 11 to 20 below concern document(s) or information included: 11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. <input checked="" type="checkbox"/> A FIRST preliminary amendment. 14. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 15. <input type="checkbox"/> A substitute specification. 16. <input type="checkbox"/> A change of power of attorney and/or address letter. 17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825. 18. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4). 19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 20. <input checked="" type="checkbox"/> Other items or information: NOTIFICATION OF THE RECORDING OF A CHANGE				

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U.S. APPLICATION NO. (if known, see 37 CFR 1.2)		INTERNATIONAL APPLICATION NO.		ATTORNEY'S DOCKET NUMBER	
21. <input checked="" type="checkbox"/> The following fees are submitted: BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)): Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO. \$1000.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$860.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$710.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$690.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00 ENTER APPROPRIATE BASIC FEE AMOUNT =				CALCULATIONS PTO USE ONLY	
				\$ 690.00	
				\$	
				\$	
				\$	
Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$	
Total claims	52 - 20 =	32	x \$18.00	\$ 576.00	
Independent claims	2 - 3 =	0	x \$80.00	\$ -0-	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ \$270.00	
TOTAL OF ABOVE CALCULATIONS =				\$ 1,266.00	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$	
SUBTOTAL =				\$ 1,266.00	
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$	
TOTAL NATIONAL FEE =				\$ 1,266.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property +				\$	
TOTAL FEES ENCLOSED =				\$ 1,266.00	
				Amount to be refunded:	\$
				charged:	\$
a. <input checked="" type="checkbox"/> A check in the amount of \$ <u>1,266.00</u> to cover the above fees is enclosed. b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>02-266</u> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137 (a) or (b)) must be filed and granted to restore the application to pending status.					
SEND ALL CORRESPONDENCE TO:					
				 SIGNATURE	
				George L. Fountain NAME	
				36,374 REGISTRATION NUMBER	

FORM PTO-1590 (JULY 11-2000) page 2 of 2

EXHIBIT B

09/786529

UNITED STATES PATENT AND TRADEMARK OFFICE
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20231

APPLICATION NO. 09/786529 CLASSIFICATION LUCIANI FIRST NAMED APPLICANT ATTY. DOCKET NO. 771 P. 3321

5611

GEORGE L FOUNTAIN
OPPENHEIMER WOLFF & DONNELLY
SUITE 3800
2029 CENTURY PARK EAST
LOS ANGELES CA 90067

INTERNATIONAL APPLICATION NO. 09/786529

I.A. FILING DATE 08/26/99 PRIORITY DATE 08/26/98

DATE MAILED: 04/13/01

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as:
- ☐ a Designated Office (37 CFR 1.494),
 - ☒ an Elected Office (37 CFR 1.495):
 - ☒ U.S. Basic National Fee.
 - ☒ Copy of the International application in:
 - ☐ a non-English language.
 - ☒ English.
 - ☐ Translation of the international application into English.
 - ☐ Oath or Declaration of Invention(s) for DO/EO/US.
 - ☐ Copy of Article 19 amendments.
 - ☐ Translation of Article 19 amendments into English.
 - ☐ The International Preliminary Examination Report in English and its Annexes, if any.
 - ☐ Translation of Annexes to the International Preliminary Examination Report into English.
 - ☐ Preliminary amendment(s) filed _____ and _____.
 - ☐ Information Disclosure Statement(s) filed _____ and _____.
 - ☐ Assignment document.
 - ☐ Power of Attorney and/or Change of Address.
 - ☐ Substitute specification filed _____.
 - ☐ Statement Claiming Small Entity Status.
 - ☐ Priority Document.
 - ☒ Copy of the International Search Report and copies of the references cited therein.
 - ☐ Other:
2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
 - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
 - ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
 - ☒ c. Oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.
 - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
 - ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).
3. Additional claim fees of \$ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☐ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

Patricia Doshier
Telephone: (703) 305-3738



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/786,529	James V. Luciani	082771.P332PCTUS

INTERNATIONAL APPLICATION NO.
PCT/US99/19490

I.A. FILING DATE	PRIORITY DATE
08/26/1999	08/26/1998

George L Fountain
Oppenheimer Wolff & donnelly
Suite 3800
2029 Century Park East
Los Angeles, CA 90067

CONFIRMATION NO. 1428

371

ABANDONMENT/TERMINATION
LETTER

OC000000008190083

Date Mailed: 05/28/2002

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as an Elected Office (37 CFR 1.495), has made the the following determination:

- Applicant has failed to properly respond to the notification of MISSING REQUIREMENTS, mailed 04/13/2001 within the time period set therein. See the attached NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916).

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

PATRICIA A BOOKER

Telephone: (703) 305-3738

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)